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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/774,918 | 02/06/2004 | Charles A. Lieffring | LIE-001 | 8855 |
| 26821 | 7590 | 05/16/2006 | | |
| THOMPSON & THOMPSON, P.A. P.O BOX 166 SCANDIA, KS 66966 | | | EXAMINER POLLICOFF, STEVEN B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3728 | |

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--|---|--|
| Office Action Summary | Application No. 10/774,918 | Applicant(s) LIEFFRING ET AL. | |
| | Examiner Steven B. Pollicoff | Art Unit 3728 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/06/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,3,4 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Haase (US Pat 3,048,457).

With respect to claims 1,2,3,4 and 15, Haase discloses a tray assembly comprising a generally rectangular platform having a generally flat surface surrounded by a plurality of upstanding walls and a support system for supporting the platform on a variety of work surfaces (Haase Fig 1-4 generally). The support system comprises first and second pairs of legs attached to the platform and protruding downwardly therefrom (Fig 1,2 and 4 reference numbers 23 and 24), each of said legs having a bottom surface and a tapered inner side surface (Fig 2 and 3 generally), said first and second pair of legs being slidably adjustable relative to each other such that a spacing between the inner side surfaces of said first and second pair of legs can be adjusted, respectively (column 2 lines 19-22).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5,6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase (US Pat 3,048,457) as applied to claims 1 above and further in view of Irish (US Pat 5,950,972).

With respect to claims 5,6,8 and 11 Haase does not disclose that the tray further comprises a first detachable tray attached to the platform. However, Irish discloses a platform with first and second detachable trays capable of holding sockets or other parts/tools/bolts (Irish Fig 8 and 9) attached to one of the upstanding walls of the platform by a structure that hooks over an upper edge of the wall (Fig 8 reference numbers 168 and 268) and hangs therefrom (Fig 9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tray assembly of Haase to include a first and second detachable tray, as taught by Irish, for the purpose of conveniently providing additional tools and materials (column 6 lines 26-28).

With respect to claims 9 and 10, Haase as modified does not disclose that the second detachable tray has the same general structure of the first detachable tray, that the space of the second detachable tray is larger than the space of the first detachable tray, and that the modified tray assembly further comprises a detachable parts tray. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to, first, provide a second (and third) detachable tray of the same general structure as the first detachable tray, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art (St Regis Paper Co. v. Bemis Co., 193 USPQ 8) and second, it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to have one detachable tray larger than the other, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art (In re Rose, 105 USPQ 237 (CCPA 1955)).

Claims 7, 16 and 17¹⁸_A are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase (US Pat 3,048,457) in view of Irish (US Pat 5,950,972) as applied to claims 1, 5 and 15 above and further in view of Wridt (US Pat 5,195,636).

With respect to claims 7 and 16, Haase as modified above discloses that the detachable trays have a space defined by a generally flat bottom surface surrounded by a plurality of upstanding sides (Irish Fig 8 reference number 286). Haase as modified does not disclose that the space has a width that gradually increases from a narrow end to a wide end. However, Wridt discloses a detachable tray with a space having a width

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that gradually increases from a narrow end to a wide end (Wridt Fig 1 and 2) for snugly receiving sockets of varying diameters (column 2 lines 46-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the modified Haase tray assembly to include a detachable tray with a space having a width that gradually increases from a narrow end to a wide end to better and more securely retain sockets.

With respect to claims 17 and 18, see rejection arguments for claims 9 and 10 above.

Claims 12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase (US Pat 3,048,457) as applied to claim 1 above and further in view of Freitag (US Pat 6,038,984).

With respect to claims 12, Haase does not disclose that the tray assembly includes handles at opposite ends of the platform. However, Freitag discloses a tray assembly having adjustment plates/handles (Fig 2 reference number 27 and 28) on opposite ends of a platform. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Haase tray assembly to include handles, as taught by Freitag, for the purpose of more securely removing the tray from or placing the tray on the desired object.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haase (US Pat 3,048,457).

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With respect to claims 14, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the platform and the plurality of legs out of sheet metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416). Sheet metal is a well known material to those of ordinary skill in the art.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase (US Pat 3,048,457) in view of Irish (US Pat 5,950,972) and Wridt (US Pat 5,195,636) as applied to claims 15-18 above and further in view of Freitag (US Pat 6,038,984).

With respect to claim 19, Haase as modified does not disclose that the tray assembly includes handles at opposite ends of the platform. However, Freitag discloses a tray assembly having adjustment plates/handles (Fig 2 reference number 27 and 28) on opposite ends of a platform. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the modified Haase tray assembly to include handles, as taught by Freitag, for the purpose of more securely removing the tray from or placing the tray on the desired object.

With respect to claim 20, see rejection argument for claim 14 above.

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Allowable Subject Matter

Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mitchell (US Pat 4,309,009) discloses a tool tray with legs supporting the tray on a tire. Chappell (US Pat 4,524,701) discloses slidable leg members connected to a tray.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mickey Yu
Supervisory Patent Examiner
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SBP

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